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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,550	06/21/2001	Stephen L. Clark	4524B	8232

23466 7590 03/13/2002

FCI USA INC
INTELLECTUAL PROPERTY LAW DEPARTMENT
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EXAMINER
VU, HIEN D

ART UNIT	PAPER NUMBER
2833	

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/~~466,886~~ 530	Clark et al
Examiner	**Group Art Unit**
Hien Vu	2833

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☑ Claim(s) 55-58 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☑ Claim(s) 55-58 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)–(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)–(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

☑ Information Disclosure Statement(s), PTO–1449, Paper No(s). 4

☑ Notice of Reference(s) Cited, PTO–892

☐ Notice of Draftsperson's Patent Drawing Review, PTO–948

☐ Interview Summary, PTO–413

☐ Notice of Informal Patent Application, PTO–152

☐ Other _____

Office Action Summary

1. Claims 55-58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 55, lines 5-7, it is unclear how each of the pair of receptacle walls could extend in a plane perpendicular to and intersect the axis; lines 9-10, it is unclear what "a plate of the spaced walls" is referring to ; lines 13-14, it is unclear how the plates could extend in a plane parallel to the receptacle walls. Claims 56-57 are confusing and unclear, and the claims appears to be identical. In addition, it is unclear how the axis could be horizontal. Claim 58 features are confusing and unclear since such features are not disclosed in the specification.

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 55 and 58 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 55 and 56 of copending Application No. 09/886,432. Although the conflicting claims are not identical, they are not patentably distinct from each other because to form the pair of receptacle walls extending in a

plane without perpendicular to and intersecting the axis would have been obvious matter choice of design.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claim 55 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 57 of copending Application No. 09/886,432. Although the conflicting claims are not identical, they are not patentably distinct from each other because to form the pair of receptacle walls to be extended in a plane perpendicular to and intersecting the axis would have been obvious matter choice of design.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 55-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al (843).

7. Insofar as the claims can be understood due to the indefiniteness above, Davis is applied as follows: Figs. 9 and 11 show a receptacle housing 2, a conductive receptacle contact 6 with a pair of spaced walls (not labeled), fig.3 shows a plug housing (2,7), a conductive plug 6 with a pair of

spaced walls (not labeled) having plates 9. To form the pair of receptacle walls to be extending in a plane perpendicular to and intersecting the axis would have been a matter of choice of design.

8. Any inquiry concerning this communication should be directed to Hien Vu at telephone number (703) 308-2009.

Vu/ek

02/28/02

Hien Vu